

FILED

OA 91 Criminal Complaint

United States District Court

JUL 29 2008

NORTHERN

DISTRICT OF

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAUNITED STATES OF AMERICA
V.

JONATHAN CRUZ-RAMIREZ

CRIMINAL COMPLAINT

Case Number: **3 08 70476**

(Name and Address of Defendant)

MEJ

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my knowledge and belief. On or about July 24, 2007 in San Francisco County, in the Northern District of California defendant(s) did,
(Track Statutory Language of Offense)

See Attachment A

in violation of Title _____ United States Code, Section(s) _____
8 U.S.C. Sec. 1326 (illegal re-entry)

I further state that I am a(n) Special Agent of ICE and that this complaint is based on the following facts:
See Attachment B

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Approved

As To W.S. Wilson Leung
Form: AUSA

Jason Red

Name/Signature of Complainant

Sworn to before me and subscribed in my presence,

July 25, 2008

Date

at San Francisco California
City and State

HON. MARIA-ELENA JAMES

U.S. MAGISTRATE JUDGE

Name & Title of Judicial Officer

Signature of Judicial Officer

Attachment A

having been previously excluded, deported, and removed from the United States, unlawfully, willfully, and knowingly returned and was found in the Northern District of California, the Attorney General of the United States and the Secretary for Homeland Security not having expressly consented to a re-application by the defendant for admission into the United States, in violation of Title 8, United States Code, Section 1326.

ATTACHMENT B

AFFIDAVIT OF JASON RED

I, JASON RED, Special Agent with Immigration and Customs Enforcement, being duly sworn, do declare and state:

1. I am a Special Agent with Immigration and Customs Enforcement ("ICE") and have been so employed since 2004. I am presently assigned to ICE's San Francisco office, where I investigate violations of federal law, with a focus on violent crimes and crimes committed by street gangs, as well as violations of immigration law. During my career with ICE, I have received training on a variety of law enforcement subjects, including immigration enforcement, violent crimes, narcotics trafficking, criminal procedure, search warrants, and gangs. I have also conducted and participated in numerous investigations of street crimes and immigration offenses, and have participated in the execution of numerous search warrants. The information set forth below is based on my own investigation or on conversations I have had with other law enforcement officers and from reviewing law enforcement documents.
2. This Affidavit is made in support of a Criminal Complaint charging **JONATHAN CRUZ-RAMIREZ** with illegal re-entry into the United States, in violation of Title 8, United States Code, Section 1326. This Affidavit is further made, pursuant to Federal Rule of Criminal Procedure 41, in support of a warrant to search the premises known and described as 949 Connecticut Street, San Francisco, California (the "**PREMISES**"), in the Northern District of California, which is the home of **CRUZ-RAMIREZ**.
3. Because this Affidavit is submitted for the limited purpose of establishing probable cause for an arrest warrant and a search warrant, I have not included each and every fact known to me that supports probable cause for arrest or probable cause for search. Rather, I have set forth only the facts that I believe are necessary to support the lawful arrest of **CRUZ-RAMIREZ** and the search of the **PREMISES**.
4. Where statements made by other individuals (including other Special Agents and law enforcement officers) are referenced in this Affidavit, such statements are described in sum and substance and in relevant part. Similarly, where information contained in reports and other documents or records are referenced in this Affidavit, such information is also described in sum and substance and in relevant part.

PROBABLE CAUSE FOR THE ARREST OF JONATHAN CRUZ-RAMIREZ

5. I learned the following from reviewing the immigration records of **JONATHAN CRUZ-RAMIREZ**:

- a. On or about December 31, 2007, the Border Patrol **CRUZ-RAMIREZ** near Nogales, Arizona, near the United States-Mexican border, without any immigration documents authorizing his presence in the United States. Following his detention, **CRUZ-RAMIREZ** appeared before a Border Patrol Agent for an expedited removal proceeding pursuant to 8 C.F.R. Section 235(b)(1). Following this proceeding, the Border Patrol Agent determined that **CRUZ-RAMIREZ** was excludable and ordered him removed.
 - b. A Notice to Alien Ordered Removed/Departure Verification was issued to **CRUZ-RAMIREZ**, which advised him that he was barred from the United States for a period of five years and warned him that illegally re-entering the United States was a criminal violation of Title 8, United States Code, Section 1326. **CRUZ-RAMIREZ** signed this Notice on or about January 2, 2008, affixed one of his fingerprints on it, and was allowed to walk back to Mexico. This Notice also contained a photograph of **CRUZ-RAMIREZ**.
6. I am familiar with the photograph affixed on the Notice to Alien Ordered Removed/Departure Verification for **JONATHAN CRUZ-RAMIREZ** and have seen an individual in San Francisco who appears to be **JONATHAN CRUZ-RAMIREZ**. Indeed, approximately three weeks ago, I spoke with this individual, and he identified himself to me as "Jonathan Cruz." Moreover, I have reviewed criminal records for an individual named "Jonathan Cruz" who has the same date of birth as **JONATHAN CRUZ-RAMIREZ**. Moreover, I learned from a police officer with the SFPD's Gang Task Force that the individual who identified himself to me as "Jonathan Cruz" three weeks ago was detained briefly by the police but not charged with any crime. "Jonathan Cruz" identified himself again as "Jonathan Cruz" and stated that he lived at the **PREMISES**.¹

PROBABLE CAUSE TO SEARCH THE PREMISES

7. I learned from reviewing criminal records for **JONATHAN CRUZ-RAMIREZ** that he is presently on probation for receiving stolen property in or about November 28, 2007. According to his probation records, he resides at the **PREMISES**.
8. I learned from members of the SFPD who have seen the **PREMISES** that it is a unit in a multi-unit dwelling located on Connecticut Street. The **PREMISES** is clearly marked with

¹ The SFPD did not immediately report the detention of "Jonathan Cruz" to ICE because there was concern that doing so would violate San Francisco's "sanctuary city" policy.

the number "949" affixed above the blue, and the PREMISES itself is painted orange and tan, as described in Attachment A hereto, which is incorporated fully by reference herein.

9. Based on my experience and training, I know that illegal aliens often possess and use fraudulent and counterfeit documents in order to come into the United States illegally and live in the United States. This is particularly true for illegal aliens who have criminal convictions, such as **JONATHAN CRUZ-RAMIREZ**, who, because of their criminal records, would attract attention at border crossings and other official check points, as well as at any occasion when they have to interact with law enforcement or government personnel. Based on my experience and training, I know that such fraudulent and counterfeit documents include, by way of example, false driver's licenses, Green Cards, passports, and birth certificates. Indeed, based on my experience and training, I know that there are loosely affiliated individuals who refer to themselves as *nieros* who sell high-quality counterfeit identification documents in San Francisco, often to illegal aliens with criminal history. Moreover, based on my experience and training, I know that illegal aliens in possession of fraudulent and counterfeit documents, when not carrying such contraband items, generally keep these items in their residences, usually hidden until they are needed because of these documents' importance to allowing them to function in the United States. Furthermore, based on my experience and training, I know that illegal aliens generally keep their real identifications and immigration and birth records in their homes instead of on their persons in order to keep these documents secure while ensuring that these documents do not incriminate them.
10. Accordingly, based on the foregoing, I respectfully submit that there is probable cause to believe that the **PREMISES** of **JONATHAN CRUZ-RAMIREZ** presently contains fraudulent and counterfeit documents such as false identifications, immigration documents, passports, and birth certificates, and other items set forth in Attachment B (incorporated in full by reference herein), all of which constitute evidence, instrumentalities, and fruits of **CRUZ-RAMIREZ**'s violation of Title 8, United States Code, Section 1326, as well as a possible of other statutes, including Title 18, United States Code, Sections 1028 (fraudulent identification documents) and 1546 (fraudulent immigration documents). Based on my experience and training, I know that such items are often contained in closed and or locked containers, and respectfully request permission to open and search such containers during execution of the search warrant.


REQUEST TO SEAL THIS APPLICATION

11. Based on my experience and training, I believe that if the contents of this Affidavit be made public, the contents would jeopardize this investigation by prompting the target of this investigation to destroy evidence, notify accomplices, or flee from prosecution. For

the foregoing reasons, and because this is an ongoing investigation, I request that this Application be sealed in its entirety until further order of the court.

CONCLUSION

12. For the foregoing reasons, I respectfully submit that there is probable cause to believe that **JONATHAN CRUZ-RAMIREZ** is in violation of Title 8, United States Code, Section 1326, and that the **PREMISES** presently contains evidence, instrumentalities, and fruits of that violation, as well as violations of other federal law. I respectfully request that an arrest warrant be issued for **CRUZ-RAMIREZ** and that a search warrant be issued for the **PREMISES**.



JASON RED
Special Agent
Immigration and Customs Enforcement

Sworn to and subscribed before me
this 25th day of July, 2008



HONORABLE MARIA-ELENA JAMES
UNITED STATES MAGISTRATE JUDGE